

## REMARKS

Claims 1-41 are pending in this application. Favorable reconsideration and allowance are respectfully requested.

Applicants have amended claims 1, 3, 16 and 24. Claim 1 has been amended to require that the walls provide space between the foundation and the walls and between the walls and the roof structure to allow air to flow through the space. Claim 3 has been amended to recite that the wall provides a space between the foundation and the wall to allow air to flow through the space. Claim 16 has been amended to require that the freestanding wall structure at least partially defines the spatial area. Claim 24 has been rewritten in independent form and includes all the limitations of the base claim and the intervening claim. Support for the claim amendments may be found throughout the specification and in the originally filed claims. No new matter has been added.

### I. Claim Rejections under 35 U.S.C. § 102 (b)

Claims 16-19, 25 and 26 have been rejected under 35 U.S.C. § 102 (b) as being anticipated by Da Costa (U.S. D438,635).

Applicants respectfully traverse the Examiner's rejection based on Da Costa. Applicants respectfully request reconsideration of the rejected claims in light of the traversals discussed below.

Da Costa discloses a bus shelter having a roof, a back wall and a side wall. The roof is supported by a single post at the back wall of the structure. As indicated in the Examiner's marked version, the roof (R) is connected to a **single** support (S). The additional structures that the Examiner has identified as supports (S) end at the top of the panels (PA) are not connected to the roof (R). The roof (R) is not mounted to a **plurality** of supports that at least partially surround a spatial area.

In contrast, Applicants' claim 16 requires a plurality of supports arranged to at least partially surround a spatial area. Applicants respectfully point out that the requirement that the plurality of supports are arranged to at least partially surround a spatial area was present in claim 16 in the third line of the claim, as originally filed and also included in the response filed on July 6, 2006. Claim 16 also requires that at least

one roof structure is mounted to the plurality of supports. Da Costa clearly fails to teach or suggest that the roof is connected to a **plurality** of upstanding supports. Note that this structure causes resistance to high winds, e.g. hurricane winds, where as the Da Costa structure clearly would not withstand high winds.

Therefore, the Applicants assert that the claimed invention in claim 16 is not anticipated by the Da Costa reference. The Applicants respectfully request that the rejection of claims 16 dependent claims 17-19, 25 and 26 under 35 U.S.C. §102(b) be withdrawn.

## **II. Claim Rejections under 35 U.S.C. § 103 (a)**

Claims 1 and 2 have been rejected under 35 U.S.C. § 103 (a) as being unpatentable over Lahaie (U.S. D250,836) in view of Robbins (U.S. 5,107,637). According to the Examiner, Lahaie discloses the basic claimed shelter except for specifically detailing that the freestanding wall defines advertisement and except for detailing that the roof includes a solar power means. The Examiner cites Robbins for the shelter with a panel that display advertising material therein. According to the Examiner, it is known in the art to provide a shelter with a solar-powered roof.

Applicants respectfully traverse the rejection of claims 1 and 2 based on Lahaie in view of Robbins since the references alone or in combination fail to teach or suggest Applicants' claimed invention. Even if the teachings of Lahaie and Robbins could be combined, all of the recited elements in Applicants' rejected claims would not be found in the combination.

Lahaie discloses a combined shelter and flower stand. Lahaie shows an enclosed shelter structure with walls extending from the roof to the base cross member and having a flower stand attached thereto. According to the Examiner's marked version of FIG. 1, the flower stand includes a freestanding wall structure (FP) that is parallel to the first edge (FE) of the roof (R) of the shelter (S). Further, according to the Examiner, the shelter (S) includes a plurality of horizontal members (HO) extending between at least two supports (SU) and providing support for the walls (W1, W2). The walls of Lahaie are solid between the roof and the base cross member with the only

opening in the structure being provided at the door opening shown in FIGS. 1 and 4. Lahaie does not teach or suggest that space is provided between the foundation and the walls and between the roof structure and the walls to allow air to flow through the space.

Robbins discloses a shelter structure including a photovoltaic illumination system. The shelter includes a back wall 20 and a side wall 22 which, together with the wall module 16, support the roof 12. (Col. 3, lines 1-3). As shown in FIG. 1, the roof 12 is connected to and supported by the wall module 16 across the entire width of the wall module 16. The back wall 20, side wall 22 and wall module 16 are supported by a plurality of posts that surround the shelter and are also connected to the roof 12. The walls extend from the roof to the ground with no space and thus no air flow thererthrough. Robbins fails to teach or suggest walls providing space between the foundation and the walls and between the walls and the roof structure to allow air to flow through the space.

In contrast, Applicants' claim 1 requires the walls provide a space between the foundation and the walls and between the walls and the roof structure to allow air to flow through the space that is not taught by either Lahaie or Robbins. Again, this feature is important because of the wind-resistance provided by having a space for air to flow between the roof structure and the foundation.

Therefore, Applicants assert that the claimed invention is not obvious over any combinations of Lahaie and Robbins. Applicants respectfully request that the rejection of claims 1 and 2 under 35 USC §103(a) be withdrawn.

Claims 3-7, 10-15 and 34-41 have been rejected under 35 U.S.C. § 103 (a) as being unpatentable over Lahaie in view of Robbins. With reference to claims 3, 34 and 38, the Examiner states that Lahaie discloses the basic shelter except for explicitly disclosing whether the panel displays advertising material. The Examiner states that Robbins teaches a panel of a shelter displaying advertising material and that it would have been obvious to one of skill in the art to provide the shelter of Lahaie with advertising as taught by Robbins.

Applicants respectfully traverse the Examiner's rejections based on Lahaie in view of Robbins since the references alone or in combination fail to teach or suggest Applicants' claimed invention. Even if the teachings of Lahaie and Robbins could be combined, all of the recited elements in Applicants' rejected claims would not be found in the combination. Lahaie and Robbins fail to show a freestanding wall structure partially surrounding the spatial area and substantially disconnected from the remaining structure. These references also fail to show a wall providing a space between the foundation and the wall to allow air to flow through the space.

Robbins, as discussed above, fails to teach or suggest a freestanding wall structure or panel display unattached to the posts wall and roof of the shelter. Robbins also fails to teach or suggest a shelter wherein the wall structure provides space between the foundation and the wall and/or the roof structure and the wall for air flow through the space.

Lahaie, as discussed above, fails to teach or suggest a freestanding wall upstanding from the fixed foundation and that partially surrounds the spatial area or a shelter having a space between the wall and the foundation for air to flow through the space. Applicants still maintain that it is not clear from the drawings that the Lahaie shelter and plant stand are secured to the ground at all. Further, Lahaie fails to teach or suggest a shelter wherein the wall structure provides space between the foundation and the wall and/or the roof structure and the wall for air flow through the space. The walls disclosed by Lahaie enclose the shelter from the roof to the cross members.

Lahaie and Robbins together or individually fail to teach or suggest a panel display connected to and upstanding from the fixed foundation and unattached to the

posts, the wall and the roof. Lahaie and Robbins together or individually fail to teach or suggest a freestanding panel that partially surrounds the spatial area and that is substantially unattached to the supports or the roof structure. Further, as discussed above, Lahaie and Robbins together or individually fail to teach or suggest wall structures that provide space between the foundation and the wall and/or the roof structure and the wall for air flow through the space.

In contrast, Applicants' claimed invention in newly amended claim 3 requires that the wall provides a space between the foundation and the wall to allow air to flow through the space. Claim 34 requires a freestanding panel containing advertising materials that partially surrounds the spatial area. Claim 38 requires wall structures that provide space between the foundation and the roof structure for air flow therethrough.

Therefore, Applicants assert that the claimed invention is not obvious over any combinations of Lahaie and Robbins. Applicants respectfully request that the rejection of claims 3-7, 10-15 and 34-41 under 35 USC §103(a) be withdrawn.

Claims 8 and 9 have been rejected under 35 USC §103(a) as being unpatentable over Lahaie in view of Robbins as applied to claim 3 above and further in view of Da Costa. The Examiner states that Da Costa teaches channel members and at least one glass panel.

Applicants respectfully traverse the Examiner's rejections based on Lahaie in view of Robbins further in view of Da Costa since the references alone or in combination fail to teach or suggest Applicants' claimed invention. Even if, *arguendo*, the teachings of Lahaie, Robbins and Da Costa could be combined, all of the recited elements in Applicants' rejected claims would not be found in the combination.

As discussed above Lahaie in view of Robbins fails to teach or suggest the claimed invention in claim 3. Da Costa has been discussed above and similarly fails to meet the limitations of claims 3, 8 and 9. Similar to Lahaie, where the Examiner states that the Lahaie design application is silent as to the channel members, the design application of Da Costa is also silent as to channel members and any materials used to form the shelter, i.e. glass, and does not make up the deficiencies of Lahaie and Robbins.

Therefore, Applicants assert that the claimed invention is not obvious over any combinations of Lahaie, Robbins and Da Costa. Applicants respectfully request that the rejection of claims 8 and 9 under 35 USC §103(a) be withdrawn.

Claims 20-22 and 27 have been rejected under 35 USC §103(a) as being unpatentable over Lahaie in view of Robbins.

Applicants respectfully traverse the rejection of claims 20-22 and 27. Lahaie and Robbins have been discussed above and both these reference fails to teach or suggest a freestanding wall panel partially defining the spatial area. Claim 16 from which claims 20-22 and 27 depend requires a freestanding wall panel partially defining the spatial area. Therefore, Applicants assert that the claimed invention is not obvious over any combinations of Lahaie and Robbins. Applicants respectfully request that the rejection of claims 20-22 and 27 under 35 USC §103(a) be withdrawn.

#### **IV. Allowable Subject Matter**

Applicants kindly thank the Examiner for indicating that claims 28-33 are allowable and that claim 24 would be allowable if rewritten. Applicants have rewritten claim 24 in independent form including all the limitations of the base claim and any intervening claim. Applicants also believe that claim 23 is still allowable, having been previously allowed and not specifically rejected in this Office Action.

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**SUMMARY**

Pending Claims 1-41 as amended are patentable. Applicants respectfully request reconsideration. The Examiner is invited to contact the undersigned attorney for the Applicants via telephone if such communication would expedite this application.

Respectfully submitted,

A handwritten signature in cursive script, reading "Heidi A. Dare", is written over a horizontal line.

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